

## **MINUTES**

### **MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON FINANCE AND CLAIMS**

**Call to Order:** By **CHAIRMAN CHUCK SWYSGOOD**, on February 5, 1999  
at 12;29 P.M., in Room 108 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Sen. Chuck Swysgood, Chairman (R)  
Sen. Tom A. Beck (R)  
Sen. Chris Christiaens (D)  
Sen. William Crismore (R)  
Sen. Greg Jergeson (D)  
Sen. Bob Keenan (R)  
Sen. J.D. Lynch (D)  
Sen. Dale Mahlum (R)  
Sen. Ken Mesaros (R)  
Sen. Arnie Mohl (R)  
Sen. Linda Nelson (D)  
Sen. Debbie Shea (D)  
Sen. Mike Taylor (R)  
Sen. Daryl Toews (R)  
Sen. Mignon Waterman (D)

**Members Excused:** Sen. Tom Keating, Vice Chairman (R)  
Sen. Eve Franklin (D)  
Sen. Ken Miller (R)

**Members Absent:** None.

**Staff Present:** Shannon Gleason, Committee Secretary  
Clayton Schenck, Legislative Branch

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 323, 2/2/1999  
Executive Action:

HEARING ON SB 323

Sponsor: SEN. STEVE DOHERTY, SD 24, GREAT FALLS

Proponents: Chris Tweeten, Chief Counsel for Attorney General  
Art Dickhoff, American Cancer Society  
Dennis Alexander, American Lung Association

Opponents: None

Opening Statement by Sponsor:

SEN. DOHERTY advised the committee this bill submits for public vote a constitutional amendment to create a Health Care Trust Fund with a portion of the tobacco settlement monies. This trust would operate similar to the Coal Tax Trust Fund, with 50% of the money going in to the General Fund and 50% being set aside in a Health Care Trust Fund. SEN. DOHERTY stated the interest generated from the trust would be used for state programs related to health care and the base preserved to ensure future funds. The trust would have a 25 year term, and at the end of the 25 years there would be \$31,000,000.00 annually in interest income to fund health care. SEN. DOHERTY explained the wording is broad enough several health care programs could be funded with the interest, CHIP, tobacco education, and tax offsets for employer provided health insurance. SEN. DOHERTY further noted the tobacco settlement funds are not a given, there are several items that could tie up the settlement and it should not be counted on to cure the money problems for the legislature now or in the future. SEN. DOHERTY added these monies are not a windfall, there was a price Montanans paid for these monies.

Proponents' Testimony:

Chris Tweeten, Chief Counsel for Attorney General, passed out EXHIBIT(fcs29a01) and advised the Attorney General supported the trust fund concept. Mr. Tweeten explained how the tobacco settlement was funded. It is an annual payment set aside into a escrow fund and then divided between states using a allocation formula. Mr. Tweeten advised the figure, \$832,000,000.00, represents Montana's share of the base payments spread over 25 years. The total settlement is \$2.6 billion and Montana gets 4/10 of every 1% of every dollar. Mr. Tweeten stated these figures could change based on several factors, including the decline of cigarette sales, and felt a trust fund is necessary to ensure continued funds for programs. Mr. Tweeten thought the constitutional trust fund was necessary as a statutory account is a trust in name only, and can be used at the Legislature's direction. Mr.

**Tweeten** stated the Governor also wants a trust fund, however not a constitutional trust fund. **Mr. Tweeten** advised he was not stuck on the 50% but wanted some percentage set aside.

**Art Dickhoff**, American Cancer Society, rose in support of the bill and suggested future money be set aside in an comprehensive tobacco control program for education of youth. **Mr. Dickhoff** suggested tougher laws and enforcement for selling tobacco to minors.

**Dennis Alexander**, American Lung Association, rose in support of the principle of a trust. **Mr. Alexander** advised the committee something needs to be done now and sustained over time for prevention in order to cut long term health care costs. **Mr. Alexander** felt if all the money was spent now and none saved, in the future the state would be looking for funds for health care. *{Tape : 1; Side : A; Approx. Time Counter : 12:41}*

**Questions from Committee Members and Responses:**

**SEN. TOEWS** asked **Mr. Dickhoff** why he thought there was a need for a trust fund if the education was effective in curbing smoking. **Mr. Alexander** advised there needs to be a comprehensive program sustained over a long period of time, and while the settlement made some restrictions on advertising the tobacco companies have always found a way to get around these types of restrictions. **Mr. Alexander** felt tobacco companies were devious and had a lot of money to spend, he reminded the committee part of the settlement was to be used for reimbursement for health care. **SEN. TOEWS** commented in 25 years the education program will be a failure and money will still be needed. **Mr. Alexander** advised he did not feel the program would be a failure and hoped in 25 years there would be no need for the program, however the money should be in a trust to protect it for future health care costs.

**SEN. SHEA** wondered what the specific intervention programs were. **Mr. Alexander** stated the Department of Public Health has put together a comprehensive program based on recommendations from the Center for Disease Control. One component is enforcement of current laws. **Mr. Alexander** feels the laws involving possession and sale to minors have no teeth and are not enforced, therefore are ineffective.

**SEN. TAYLOR** pointed out if states reopen the case there could be no money. **Mr. Tweeten** explained no state is able to receive money until it achieves state specific finality, Montana reached that

today, 80% of the states must reach state specific finality, in addition states receiving 80% of the allocated money must reach state specific finality. **Mr. Tweeten** noted approximately 30% of states are still in litigation and that could cause Montana to not receive the money until June of 2000. {Tape : 1; Side : A; Approx. Time Counter : 12:48}

**SEN. LYNCH** asked why the 50% instead of 100%. **SEN. DOHERTY** advised he was trying to find a balance and noted there are immediate needs for some of the funds in area of health care and prevention. **SEN. DOHERTY** pointed out that the 20 year Olds who are currently smoking are the ones that will be using the money 20 years down the road and that is why there is a need to set aside money for the future.

**SEN. BECK** questioned the figures in the material handed out by **Mr. Tweeten** and wondered if they included the money the Federal Government was trying to take out. **Mr. Tweeten** advised the figures do not include that money and explained the Federal Government has a potential claim against the state's settlement for reimbursement of Federal Medicaid payments and Montana would lose approximately 70 cents on the dollar. **Mr. Tweeten** noted the President has included the funds in his budget but there is a bill before Congress that exempts the settlement dollars from this reimbursement. **SEN. BECK** noted there are several bills circulating using tobacco money and if Montana only received 70 cents on the dollar there would not be enough money to fund the current bills. **Mr. Tweeten** advised if the Federal Government did decide to take the funds Montana would not claim all the money under Medicaid reimbursement and would make adjustments to increase other areas, however there would be a shortfall of funds with the bills circulating now.

**SEN. BECK** wondered if half of the revenue on the trust was going to be reinvested so the trust expands. **SEN. DOHERTY** explained 50% of the money received every year would be placed into a trust, and all the interest from the trust would be used. {Tape : 1; Side : A; Approx. Time Counter : 12:56}

**SEN. BECK** questioned whether **SEN. DOHERTY** would be willing to settle for less than a 3/4 vote by the Legislature to allow use of the money in the trust. **SEN. DOHERTY** advised he would not and noted the Education Trust as an example of a trust that has been raided because there was less than a 3/4 vote requirement.

**CHAIRMAN SWYSGOOD** noted there are several bills relating to the tobacco settlement funds, and mentioned **REP. KASTEN's** bill, **CHAIRMAN SWYSGOOD** wondered how this bill would effect the others.

**SEN. DOHERTY** thought the two bills could work together with the result being less money available in the future. **CHAIRMAN SWYSGOOD** asked what happens if all the bills pass and this takes money away from the programs. **SEN. DOHERTY** advised both this committee and the house needed to be careful since they are trying to spend money for programs that is not yet here and not guaranteed. **SEN. DOHERTY** added all these programs are worthy, but the money should not be spent until it is here.

**CHAIRMAN SWYSGOOD** wanted **SEN. DOHERTY** to explain the date of January 1st, 1999 as it ruled out CHIP. **SEN. DOHERTY** advised that was not his intent, the intent was to tie it to health care programs. **CHAIRMAN SWYSGOOD** advised **SEN. DOHERTY** he may want to clarify the date.

**SEN. JERGESON** wondered if anyone had calculated when the income from the trust would equal the annual distribution to the state on the settlement, and if the trust retained five or ten percent of the interest income when it would match the distribution.

**Clayton Schenck**, Legislative Fiscal Analyst, advised the committee he would have someone compile those figures.

**Closing by Sponsor:**

**SEN. DOHERTY** stated he felt the value of a trust was it created a buffer for uncertainties ahead involving the amount of money from the settlement, and noted the other advantage is the money will be there years from now working for the people of this state.

**CHAIRMAN SWYSGOOD** advised the committee this bill will be referred to Public Health and noted he requested the bill so the committee could review it due to the financial impact of the proposal. **CHAIRMAN SWYSGOOD** advised **SEN. DOHERTY** he should make any amendments prior to the bill leaving the Finance and Claims Committee.

**ADJOURNMENT**

Adjournment: 1;11 P.M.

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SEN. CHUCK SWYSGOOD, Chairman

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SHANNON GLEASON, Secretary

CS/SG

**EXHIBIT** (fcs29aad)